

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING TEXT AMENDMENT REPORT (#FZTA-14-02)
AUGUST 27, 2014

A report to the Flathead County Planning Board and Board of County Commissioners for a text amendment to the Flathead County Zoning Regulations. The purpose of the request is to amend the Flathead County Zoning Regulations (FCZR) to add 'Dwelling unit, accessory (ADU)' as a permitted to Agricultural, Suburban Agricultural and Residential zoning use districts in Sections 3.04.020, 3.05.020, 3.06.020, 3.07.020, 3.08.020, 3.09.020 and 3.43.020 FCZR, and to add 'Dwelling unit, accessory' as a conditional use to Residential zoning use districts in Sections 3.10.030, 3.11.030, 3.12.030, 3.13.030 and 3.15.030 FCZR. This amendment would also add performance standards, parking standards, and a definition regarding 'Dwelling unit, accessory.' in Section 5.01, 6.02 and 7.05 of the Flathead County Zoning Regulations.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning text amendment on September 10, 2014 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First Avenue West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning text amendment.

Documents pertaining to the zoning text amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning text amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the review of the proposal on September 10, 2014 by the Flathead County Planning Board.

B. Commission

This space will contain an update regarding the review of the proposal by the Flathead County Board of Commissioners.

II. GENERAL INFORMATION

A. Applicant/Petitioner

Flathead County Planning Board

B. Background to Requested Amendments

The Flathead County Planning Board has held several publicly noticed workshops intended to evaluate existing language and/or provisions contained in the Flathead County Zoning Regulations (FCZR). The publicly initiated text amendment regarding 'dwelling units, accessory (ADU)' is the result of workshops which occurred between March 2013 and March 2014. The Planning and Zoning Department has been approved by the Planning Board and the Board of County Commissioners to evaluate the regulations and to generate and process requests for amendments to the regulations.

A joint Planning Board and Commissioner workshop was held on March 13, 2013 to discuss projects for fiscal year 2013, it was determined at that time to look at updating the

Flathead County Zoning Regulations. On August 14, 2013 at the regularly scheduled Planning Board meeting, staff handed out a copy of the list of zoning issues that have been brought during previous Planning Board meetings, staff's daily interaction with the public, administrative fixes, previous complaints, and previous attempts to update the zoning regulations. During the regularly scheduled Planning Board meeting on February 12, 2014 the Planning Board and staff discussed what topics to address concerning the update to the regulations the discussion centered around home occupations, wedding facilities, ADUs and vacation rentals by owner (VRBOs). On March 12, 2014 during the Planning Board workshop the Planning Board and staff discussed size of accessory dwelling units, whether they should be attached, detached or interior, what zone they should be permitted and conditionally permitted and other standards that should apply. After the meeting staff was direct to draft a text amendment for ADU's based on the result of the workshop.

C. Sections Proposed for Amendment

The amendment is addressed as follows:

- i. A summary of the general character of and reason for the proposed amendment;
- ii. Listing of the specific section being amended and the actual language of the proposed amendment. Under "Proposed amendment" the language is shown as it appears in the current regulations, with proposed additions *italicized* and shaded gray and proposed deletions ~~stricken~~ and shaded gray.

D. Criteria Used for Evaluation of Proposed Amendment:

Amendments to the text of the Flathead County Zoning Regulations are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

E. Compliance With Public Notice Requirements:

Legal notice of the Planning Board public hearing on this application was published in the August 24, 2014 edition of the Daily Interlake. Public notice of the Board of County Commissioners public hearing regarding the zoning text amendment will be physically posted within the County according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning text amendment.

F. Agency Referrals

Referrals were sent to the following agencies on August 1, 2014:

- Bonneville Power Administration
 - Reason: BPA has requested that anytime agency referrals are sent they receive a copy.
- Flathead City-County Health Department; Environmental Health Services
 - Reason: Increased development as a result of the zoning text amendment may necessitate review by the Department.

- Flathead County Superintendent of Schools
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.
- Flathead County Public Works/Flathead County Road Department
 - Reason: The zoning text amendment has the potential to impact County infrastructure.
- Montana Department of Transportation
 - Reason: The zoning text amendment has the potential to impact state infrastructure.

III. COMMENTS RECEIVED

A. Public Comments

Staff has met with two organizations regarding the proposed zoning text amendment. The organizations are generally in support of the proposed amendments. It is anticipated any member of the public wishing to provide comment on the proposed zoning text amendment may do so at the Planning Board public hearing scheduled for September 10, 2014 and/or the Commissioner's Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: "BPA has no comment at this time. We would appreciate your sending us a finalized version once it is available." Email dated August 5, 2014.
- Flathead County Road & Bridge Department
 - Comment: "At this point the County Road Department does not have any comments on this request." Letter dated August 11, 2014.
- Flathead County Solid Waste District
 - Comment: "This office is interested in obtaining information regarding any accessory dwelling unit (ADU) that would be created to any single family dwelling in Flathead County. This would most likely create an additional solid waste assessment to the already existing dwelling." Letter dated August 14, 2014.
- Flathead City-County Health Department
 - Comment: "Proposal/approval of an ADU will require in most cases further review through DEQ and/or this office regarding septic, water and storm drainage on the parcel." Letter dated August 18, 2014.

IV. EVALUATION OF PROPOSED AMENDMENT

A. General Character of and Reason for Amendment

The purpose of the request is to amend the Flathead County Zoning Regulations (FCZR) to add 'Dwelling unit, accessory' as a permitted to Agricultural, Suburban Agricultural

and Residential zoning use districts in Sections 3.04.020, 3.05.020, 3.06.020, 3.07.020, 3.08.020, 3.09.020 and 3.43.020 FCZR, and to add ‘Dwelling unit, accessory’ as a conditional use to Residential zoning use districts in Sections 3.10.030, 3.11.030, 3.12.030, 3.13.030 and 3.15.030 FCZR. This amendment would also add performance standards, parking standards, and a definition regarding ‘Dwelling unit, accessory’ in Section 5.01, 6.02 and 7.05 of the Flathead County Zoning Regulations.

This amendment is being proposed because the Planning Board has indicated after reviewing research provided to them from staff that accessory dwelling units and that the Planning Board wanted ADUs be added as a use to the Flathead County Zoning Regulations.

B. Proposed Amendment

The proposed amendment would add language to Sections 3.04.020, 3.05.020, 3.06.020, 3.07.020, 3.08.020, 3.09.020, 3.10.030, 3.11.030, 3.12.030, 3.13.030, 3.15.030 and 3.43.020 FCZR, pertaining to accessory dwelling units (ADUs) within AG,SAG, and R zoning district as follows:

| | |
|----------|---|
| 3.04.020 | Permitted Uses (AG-80). |
| | 8. <i>Dwelling unit, accessory (ADU).</i> |
| 3.05.020 | Permitted Uses (AG-40). |
| | 8. <i>Dwelling unit, accessory (ADU).</i> |
| 3.06.020 | Permitted Uses (AG-20). |
| | 8. <i>Dwelling unit, accessory (ADU).</i> |
| 3.07.020 | Permitted Uses (SAG-10). |
| | 8. <i>Dwelling unit, accessory (ADU).</i> |
| 3.08.020 | Permitted Uses (SAG-5). |
| | 6. <i>Dwelling unit, accessory (ADU).</i> |
| 3.09.020 | Permitted Uses (R-1). |
| | 5. <i>Dwelling unit, accessory (ADU).</i> |
| 3.10.030 | Conditional Uses (R-2). |
| | 9. <i>Dwelling unit, accessory (ADU).*</i> |
| 3.11.030 | Conditional Uses (R-3). |
| | 8. <i>Dwelling unit, accessory (ADU).*</i> |
| 3.12.030 | Conditional Uses (R-4). |
| | 9. <i>Dwelling unit, accessory (ADU).*</i> |
| 3.13.030 | Conditional Uses (R-5). |
| | 9. <i>Dwelling unit, accessory (ADU).*</i> |
| 3.15.030 | Conditional Uses (RA-1). |
| | 12. <i>Dwelling unit, accessory (ADU).*</i> |
| 3.43.020 | Permitted Uses (R-2.5). |

6. *Dwelling unit, accessory (ADU).*

The proposed amendment would also add language to Sections 5.01.020(1), 5.01.020(2) and 5.01.030(7) FCZR, pertaining to accessory dwelling units (ADUs) within Performance Standards under Accessory Use as follows:

5.01.020(1) In the AG-80, AG-40, AG-20, SAG-10, SAG-5, R-2.5 and R-1 districts:

M. Dwelling unit, accessory (ADU).

5.01.020(3) In the R-2, R-3, R-4, R-5 and RA-1 districts:

L. Dwelling unit, accessory (ADU) Requires Administrative Conditional Use Permit.

5.01.030 Accessory Use Restrictions:

The following is a list of restrictions on accessory uses and structures:

7. Guest houses, ~~and~~ caretaker facilities, ~~and~~ *accessory dwelling unit (ADU)* are subject to the same setback requirements as the ~~primary~~ *principal* structure.

The proposed amendment would also add language to Section 6.02 FCZR, pertaining to accessory dwelling units (ADUs) within Residential Parking Standards as follows:

| | | |
|----------|--------------------------------------|---|
| 6.02.060 | <i>Accessory dwelling unit (ADU)</i> | <i>1 space per 400 square feet of gross floor area; maximum 2 spaces required</i> |
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The proposed amendment would also add language to Section 7.05 FCZR, pertaining to accessory dwelling units (ADUs) within Definitions as follows:

7.05.150 Dwelling unit, accessory (ADU) – A single, separate habitable living unit added to, created within, or detached from the principal single-family dwelling that provides the basic requirements for living, sleeping, eating, cooking and sanitation with stays of 30 days or longer on a single-family lot. ADUs are subordinate in size (no larger than 40% of the floor area of the principal dwelling), location, and appearance to the principal single-family dwelling and have separate means of ingress and egress. One ADU is allowed per tract of record and it may be rented to the general public.

C. Review of Proposed Amendment (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed text amendment is made in accordance with the Growth Policy and Neighborhood Plan.

1. Flathead County Growth Policy

The Growth Policy does not provide specific guidance related to accessory dwelling units.

- **Goal 2:** *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
- **Goal 8:** *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and general welfare of neighbors and efficiently provide local services.*
 - **P.8.1:** *Create reasonable, flexible and predictable development guidelines based on accurate, fair and reasonable criteria.*
- **Goal 15:** *Promote a diverse demographic of residents.*
 - **P.15.1:** *Encourage housing, employment, education and recreation to attract, support and maintain young families.*
 - **P.15.2:** *Provide services and facilities to support elderly and special-needs residents.*
- **Goal 16:** *Safe housing that is available, accessible, and affordable for all sectors of the population.*
 - **P.16.3:** *Promote the development of affordable single and multi-family housing in areas of adequate service networks.*
 - **P.16.4:** *Consider the locational needs of various types of housing with regard to proximity of employment, access to transportation and availability of public services.*
 - **P.17.1:** *Include provisions in the county zoning and subdivision regulations to promote affordable homeownership throughout the county.*
 - Response: The proposed amendment is made in accordance with the applicable goals and policies of the Growth Policy as it would preserve the property rights of landowners, promote the development of affordable housing and owning an ADU makes owning a home more affordable due to revenue from the ADU.

Finding #1: The proposed amendment appears to generally comply with the Flathead County Growth Policy, because it would preserve the property rights of landowners, promote the development of affordable housing and owning an ADU makes owning a home more affordable due to revenue from the ADU.

2. Neighborhood Plans

Staff researched the various neighborhood plans regarding the compliance of the proposed amendment. Staff found that the neighborhood plans listed below reference the topic of the proposed text amendment. The proposed amendment is generally made in accordance with the applicable neighborhood plans specifically:

❖ Bigfork Neighborhood Plan

- **G.7:** *Encourage the development of affordable housing and special needs housing opportunities in the BPA.*
- **G.8:** *Encourage housing that maintains traditional development patterns while protecting property values and natural resources.*

- **G.21** *Promote development that provides a compatible mix of housing types and price ranges.*
 - Response: The proposed amendment is made in accordance with the Bigfork Neighborhood Plan as it would promote a compatible mix of housing types and encourage the development of affordable housing.
- ❖ **Columbia Falls City-County Master Plan**
 - **Goal 4:** *Diversity in the type, density and location of housing within the planning area in order to provide an adequate affordable level of safe sanitary housing.*
 - **Objective 4(c):** *Encourage a range of housing types including apartments and manufacture homes to meet the needs of all income groups in the Planning Jurisdiction.*
 - Response: Accessory dwelling units would allow for a variety in the type, density and location of housing and would encourage a range of housing types.
- ❖ **Kalispell City-County Master Plan**
 - **6(g):** *Maintain the character of the single-family neighborhoods.*
 - Response: ADUs may not maintain the character of the single-family dwelling because they have the potential to double the density in single-family neighborhoods.
- ❖ **Riverdale Neighborhood Plan**
 - **Goal 1:** *Encourage a range of housing types*
 - **Policy 1.1:** *Permit townhomes, duplexes, and multifamily housing types in areas designated for mixed use.*
 - **Policy 1.3:** *Permit increased density in subdivision developments for which at least 15% of the housing/lots to be offered meet the definition of affordable.*
 - **Policy 1.5:** *Provide for a range of residential densities and housing types.*
 - **Goal 6:** *Provide opportunities for low and medium density residential development.*
 - Response: The text amendment would provide for a range of residential densities and housing types, permit increased density and provide for low and medium density residential.
- ❖ **South Woodland/Greenacres Neighborhood Plan**
 - **Goal 4:** *Maintain the rural character of the residential areas by limiting duplexes, apartment and businesses to established areas.*
 - **Policy a:** *Rezone residential area south of Kelly Road from existing duplex zoning to single-family zoning.*
 - **Policy b:** *Rezone residential area west of the slough from the existing duplex and multi-family zoning to single-family zoning.*
 - Response: Accessory dwelling units while not duplexes would allow for additional dwellings in single-family areas and

therefore would likely not comply with these goals and policies.

❖ Two Rivers Master Plan

- **4.** *Special consideration and opportunities should be provided to allow the creation of a variety of housing options that include single-family, two family, multi-family and mobile home parks as part of an overall development plan.*
 - Response: The text amendment would allow the creation of a new housing option.

❖ Whitefish City-County Master Plan

- **Goal 5B:** *An adequate supply and mix of housing options in terms of cost location, type and design, to meet the needs of present and future residents.*
 - **5.1:** *Provide an adequate supply of affordable housing to meet the needs of low- and moderate- income residents.*
 - **5.2:** *Conserve the character and stability of neighborhoods.*
 - **5.4:** *New residential development shall provide adequate off-street parking.*
 - **5.7:** *Discourage medium and high density residential developments in fragile, sensitive or critical areas so as to avoid exceeding the carrying capacity of the site.*
 - Response: The text amendment would allow for affordable housing to meet the needs of low- and moderate- income residents, a mix of housing options in terms of cost, location, type and design, to meet the needs of present and future residents and require off-street parking. However, ADUs could lead to residential development in fragile, sensitive or critical areas.

Finding #2: The proposed amendment appears to generally comply with the Bigfork Neighborhood Plan, the Columbia Falls City-County Master Plan, the Riverdale Neighborhood Plan, the Two Rivers Master Plan, and the Whitefish City-County Master Plan because it would promote a compatible mix of housing types, encourage the development of affordable housing, allow for a diversity in the density, and location of housing, require off-street parking and allow for affordable housing to meet the needs of low- and moderate- income residents.

Finding #3: The proposed amendment does not appear to comply with the Kalispell City-County Master Plan and the South Woodland/Greenacres Neighborhood Plan because ADUs may not maintain the character of the single-family dwelling and accessory dwelling units, while not duplexes, would allow for additional dwellings in single-family areas.

ii. **Whether the proposed text amendment is designed to:**

1. Secure safety from fire and other dangers;

The proposed text amendment to add accessory dwelling units appears to not have a negative impact on safety from fire and other dangers because ADUs

would be required to meet the bulk and dimensional requirements for the underlying district. The proposed amendment would require accessory dwelling units to be subject to the same setback requirements as the principal structure. The bulk and dimensional requirements within the zoning designations have been established to secure safety from fire and other dangers.

Finding #4: The proposed text amendment to add accessory dwelling units appears to not have a negative impact on safety from fire and other dangers because ADUs would be required to meet the bulk and dimensional requirements for the underlying district and accessory dwelling units would be required to meet the setbacks of a principal structure.

2. Promote public health, public safety, and general welfare;

The proposed text amendment appears to promote the general welfare by allowing home owners to build accessory dwelling units which can offset rising property taxes and maintenance costs. ADUs in some cases can provide enough additional income for a family to live in a preferred neighborhood that is safer, is closer to work or has better schools. According to a study by the University of Missouri, accessory dwelling units provide an opportunity to generate additional income and increase the supply of low- and moderate-cost rental housing. Additionally, according to the study, ADUs may modestly increase economic activity in the private sector, which benefits commercial lenders, real estate agents, builders and retail business, and ADUs can result in a small increase in property appraisals.

The proposed ADU text amendment appears to promote the public health and safety because ADUs have the added benefit for helping elderly homeowners and others in maintaining their independence. According to a study by the University of Missouri, tenants may be willing to provide personal services that promote health and safety such as, providing occasional transportation for elderly landlords or providing in-home health services in lieu of rent.

Finding #5: The proposed amendment to the Flathead County Zoning Regulations was found to comply with and have no impact on public health, safety and general welfare because it would provide an opportunity to generate additional income, increase the supply of affordable housing, result in a small increase in property appraisals, and tenants may be willing to provide personal services that promote health and safety such as, providing occasional transportation for elderly landlords or providing in-home health services in lieu of rent.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The proposed amendment has the potential to increase densities in residential, agricultural and suburban agricultural zoning district, increased density has the potential to increase demand on transportation, water, sewer, schools, parks and other public requirements. The definition of accessory dwelling unit, as drafted, would require that an ADU is subordinate in size, location,

appearance to single family dwelling and would allow for only one ADU per tract of record. The definition would require that an ADU can be no larger than 40% of the floor area of the principal dwelling. Limiting an ADU to 40% of the size of the principal dwelling has the potential to limit the number of residents living in an ADU and thus minimize the amount of traffic generated.

The Institute of Transportation Engineers Trip Generation 5th Edition indicates approximately 6 average daily trips generated per apartment. Therefore, with an addition of an ADU on a property with a single family dwelling there is a potential for an increase to average daily trips from 10 to approximately 16. The increased traffic likely could have a negative impact on transportation. ADUs will require a conditional use permit (CUP) in high density residential areas (R-2, R-3, R-4, R-5 and RA-1); CUPs can minimize the impact on motorized transportation with conditions. In agricultural, suburban agricultural, R-1 and R-2.5 zoning districts an increase on 6 vehicle trips per day has the potential to impact local roads. Many rural roads currently have low traffic counts and an increase of 6 vehicle trips for an ADU will likely not impact transportation services. Comments received from the Flathead County Road and Bridge Department states, "At this point the County Road Department does not have any comments on this request."

ADUs can be connected to existing water and sewer lines and no new roads would need to be constructed. ADUs can result in more efficient use of services rather than creating an undue burden by extending roads and lines. Comments from the Flathead City County Health Department state, "Proposal/approval of an ADU will require in most cases further review through DEQ and/or this office regarding septic, water and storm drainage on the parcel." A subsequent review would be required for ADUs through DEQ, and/or the Flathead City-County Health Department to ensure the adequate provision of water and septic on a case by case basis. And if a proposed ADU is located within the jurisdiction of a water and sewer district review would be required by that district to ensure adequate capacity.

ADUs tend to be better integrated into a community and generally do not require any additional infrastructure as such ADUs are less likely to impact parks and schools.

Finding #6: The proposed text amendment to add accessory dwelling units to the Flathead County Zoning Regulations is not anticipated to have a negative impact on transportation because a CUP will be required within high density residential areas which will ensure the adequate provision of transportation, in lower density areas the roads tend to have low traffic volumes and the Road and Bridge department does not have any comments regarding this proposal.

Finding #7: The proposed amendment was found to have minimal impact on water, sewerage, schools, parks and other public requirements because ADUs tend to be better integrated into a community and generally do not require any additional infrastructure and ADUs will require a subsequent review through

DEQ, the Flathead City-County Health Department or a water and sewer district to ensure the adequate provision of water and sewer.

iii. In evaluating the proposed text amendment(s), consideration shall be given to:

1. The reasonable provision of adequate light and air;

The proposed amendment would require an accessory dwelling unit to be subject to the same setback requirements as the principal structure. Accessory dwelling units would also be subject to the bulk and dimensional requirements for the underlying zoning. Bulk and dimensional requirements within the zoning designations have been established to ensure a reasonable provision of light and air.

Finding #8: The proposed amendment was found to have no impact on light and air because bulk and dimensional requirements for the underlying zoning would be applicable and accessory dwelling units would be required to meet the setbacks for a principal structure which have established to ensure a reasonable provision of light and air.

2. The effect on motorized and non-motorized transportation systems;

The proposed amendment has the potential to increase densities in residential, agricultural and suburban agricultural zoning district. The definition of accessory dwelling unit, as drafted, would require that an ADU is subordinate in size, location, appearance to single family dwelling and would allow for only one ADU per tract of record. The definition would require that an ADU can be no larger than 40% of the floor area of the principal dwelling. Limiting an ADU to 40% of the size of the principal dwelling has the potential to limit the number of residents living in an ADU and thus minimize the amount of traffic generated.

The Institute of Transportation Engineers Trip Generation 5th Edition indicates approximately 6 average daily trips generated per apartment. Therefore, with an addition of an ADU on a property with a single family dwelling there is a potential for an increase to average daily trips from 10 to approximately 16. The increased traffic likely could have a negative impact on motorized transportation. ADUs will require a conditional use permit (CUP) in high density areas; CUPs can minimize the impact on motorized transportation with conditions. In lower density, rural areas, an increase on 6 vehicle trips per day has the potential to impact motorized transportation. Many rural roads currently have low traffic counts and an increase of 6 vehicle trips for an ADU will likely not impact motorized transportation services. Comments received from the Flathead County Road and Bridge Department states, "At this point the County Road Department does not have any comments on this request." ADUs tend to be better integrated into a community and generally do not require any additional infrastructure as such the text amendment is not anticipated to impact non-motorized transportation.

Finding #9: The proposed text amendment is not anticipated to have a negative effect on motorized and non-motorized transportation because a

conditional use permit will be required within high density residential areas, in lower density areas the roads tend to have low traffic volumes, the Road and Bridge department does not have any comments regarding this proposal and ADUs tend to be better integrated into a community and generally do not require any additional infrastructure.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

Staff looked at each of the three cities growth policies for guidance on compatibility with urban growth on the proposed amendment. The City of Columbia Falls' Growth Policy states under Urban Residential, *"Single-family houses are the primary housing type. Duplexes, guest houses, accessory apartments, and small dispersed areas of multi-family housing are also anticipated."* The Columbia Falls Growth Policy also states, *"Affordable housing should be recognized as a primary consideration when adopting or amending land use regulations. The ability of the average wage earner to either buy or build a home is an essential component of the standard of living, quality of life, and general welfare in our community."* And the Columbia Falls Growth Policy lists as a recommendation, *"Develop and implement an affordable housing strategy to effectively provide for the needs of low and moderate income residents. This should include addressing the need for additional rental and subsidized housing opportunities."*

The City of Whitefish's Growth Policy states, *"The City and WHA shall jointly explore a program to encourage the privately funded construction of accessory residential units and to ensure their continued affordability."* The City of Whitefish's Growth Policy vision statement states, *"And we will provide affordable housing so that our teachers, police officers, fire fighters, sales and service people, and others whose services we depend on, can continue to be a part of this community."*

The City of Kalispell's Growth Policy states, *"Affordable housing should be recognized as a primary consideration within the community when adopting or amending land use regulations."* The Kalispell Growth Policy states, *"All residents should have the opportunity to live in neighborhoods that provide safe and affordable housing."* The Kalispell Growth Policy also states, *"Encourage infill housing where public services are available by allowing guest cottages, garage apartments and accessory dwellings when feasible."*

It appears that the proposed text amendment would be compatible with urban growth in the vicinity of cities and towns as it would allow for affordable housing options, and would allow for accessory dwelling units when feasible.

Finding #10: This proposed text amendment would be compatible with the Growth Policy of the cities of Columbia Falls, Kalispell and Whitefish because it would allow for additional affordable housing options which is a goal of all three of the cities' growth policies, has the potential to encourage infill and would allow for accessory dwelling units when feasible.

4. The character of the district(s) and its peculiar suitability for particular uses;

The proposed text amendment could alter the character of a district because it would add a dwelling unit and increase the density. The proposed text amendment for ADUs could visually alter the district as it could lead to the alteration of the exterior of existing dwellings and increase the presence of vehicles in off-parking spaces.

The definition and performance standards are included as part of the text amendment to help ensure the character of the districts and its peculiar suitability for a particular use is not impacted. The definition of accessory dwelling unit, as drafted, would require that ADUs are subordinate in size, location and appearance to single family dwelling and the definition would require that an ADU can be no larger than 40% of the floor area of the principal dwelling. The definition was drafted to ensure that ADUs do not drastically alter the character of any district. Accessory dwelling units would also be required to meet the same setback requirements as the principal structure, similar to guest houses and caretaker's facilities.

The proposed text amendment also includes off-street parking requirements for ADUs. ADUs require 1 parking space per 400 square feet of gross floor area with a maximum of 2 parking spaces. According to Section 6.01.010 FCZR, *"When units or measurements determining number of required off-street parking and off-street loading spaces results in a requirement of a fractional space, any fraction less than one-half (1/2) shall be disregarded, and fractions of one-half (1/2) and over shall require one off-street parking or loading space."* Therefore an ADU of less than 200 square feet would require 0 parking spaces, an ADU between 200 and 599 square feet would require 1 parking space and an ADU over 600 square feet would require two parking spaces. The parking standard is to ensure that off-street parking requirements can be met for both the principal dwelling and accessory dwelling and not alter the character of the district with a need for on-street parking.

Finding #11: The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar suitability for a particular use because accessory dwelling units would be required to meet the setback requirements of a principal structure, can be no larger than 40% of the floor area of the principal dwelling, must be subordinate in size, location and appearance to single family dwelling and the text amendment requires 1 parking space per 400 square feet of gross floor area with a maximum of 2 parking spaces.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

According to the Study by the University of Missouri accessory dwelling units can result in a small increase in property appraisals but the study goes on to state that ADUs could attract absentee landlords who will exploit housing resources and not provide up keep on the units. The study also states,

accessory dwelling units provide an opportunity to generate additional income and increase the supply of low- and moderate-cost rental housing. If designed properly ADUs have the potential to blend into the surrounding neighborhood. It is very likely that one ADU could conserve or even increase the value of buildings, while another could reduce the value of buildings.

This text amendment to add accessory dwelling units to the list of permitted and conditional uses in agricultural, suburban agricultural and residential zones could encourage the most appropriate use of land. ADUs allow for additional dwelling units in residential areas, can provide added income for a farmer, young family, or the elderly and can increase the supply of affordable housing. ADUs also have the potential to facilitate efficient use of existing housing stock, and offer alternatives to zone changes which could significantly alter a jurisdictional area. Instead of landowner applying for a zone change from R-1 to an R-4 to allow for a duplex on a lot the landowner can build an ADU to have a second dwelling.

Finding #12: The proposed text amendment has the potential to both conserve the value of buildings and decrease the value of buildings because ADUs provide an opportunity to generate additional income, increase the supply of low- and moderate-cost rental housing and if designed properly have the potential to blend into the surrounding neighborhood but also could attract absentee landlords who will exploit housing resources and not provide proper maintenance and up keep.

Finding #13: The proposed amendment to add accessory dwelling units to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the text amendment could offer an alternative to a zone change to increase density on a lot, can provide added income for a farmer, young family, or the elderly and can increase the supply of affordable housing.

iv. Whether the proposed text amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The definition of accessory dwelling unit, as drafted, would require that an ADU is subordinate in size, location, and appearance to single family dwelling and would allow for only one ADU per tract of record. The definition would also require that an ADU can be no larger than 40% of the floor area of the principal dwelling.

The City of Kalispell's and the City of Columbia Falls' zoning ordinances do not allow for accessory dwelling units within residential zones. The City of Kalispell allows for townhouses with two attached units within 'R-2 Residential' and 'R-3 Residential' with a conditional use permit and allows for a duplex and a townhouses with two attached units in 'R-4 Residential', 'R-5 Residential', 'RA-1 Residential Apartment' and 'RA-2 Residential Apartment' as permitted uses. The City of Columbia Falls allows for a two family dwelling as a permitted use in 'CR-5 Two-Family Residential' and 'CRA-1 Residential Apartment'. Although

Kalispell and Columbia Falls do not allow for accessory dwelling units in residential zones they do allow for multiple dwelling units in several zones either as a permitted or conditional use.

The City of Whitefish list accessory apartments as a conditional use in several zones including ‘WA Agricultural’, ‘WCR County Residential’, ‘WSR Suburban Residential’, ‘WER Estate Residential’, ‘WLR One Family Limited Residential’, ‘WR-1 One Family Residential’, ‘WR-2 Two-Family Residential’, ‘WR-3 Low Density Multi-Family Residential’, ‘WR-4 High Density Multi-Family Residential’, ‘WRR-1 Low Density Resort Residential’, ‘WRR-2 Medium Density Resort Residential’, ‘WRB-1 Limited Resort Business’, and ‘WRB-2 General Resort Business’. The City of Whitefish defines ‘Accessory Apartment’ as *“A room or rooms attached to a dwelling unit or a garage and may be occupied by persons who are not members of the family. An accessory apartment may contain cooking facilities. Only one apartment or guesthouse is permitted on a lot.”* The City of Whitefish only allows accessory apartments with a conditional use permit and they must be attached to a dwelling unit or a garage. The proposed text amendment would allow for ADUs as a permitted use in many zoning districts and would allow for a single, separate habitable living unit added to, created within, or detached from the principal single-family dwelling.

Finding #14: While the proposed text amendment is proposed based on interest from the general public the amendment may not be entirely consistent with adopted zoning ordinances of nearby municipalities because Columbia Falls and Kalispell do not have provision for accessory dwelling units in residential districts and Whitefish requires a conditional use permit for accessory apartment and they must be attached to a dwelling unit or a garage, further the performance standards and definition would serve to minimize impacts in areas in close proximity to municipalities.

V. SUMMARY OF FINDINGS

1. The proposed amendment appears to generally comply with the Flathead County Growth Policy, because it would preserve the property rights of landowners, promote the development of affordable housing and owning an ADU makes owning a home more affordable due to revenue from the ADU.
2. The proposed amendment appears to generally comply with the Bigfork Neighborhood Plan, the Columbia Falls City-County Master Plan, the Riverdale Neighborhood Plan, the Two Rivers Master Plan, and the Whitefish City-County Master Plan because it would promote a compatible mix of housing types, encourage the development of affordable housing, allow for a diversity in the density, and location of housing, require off-street parking and allow for affordable housing to meet the needs of low- and moderate- income residents.
3. The proposed amendment does not appear to comply with the Kalispell City-County Master Plan and the South Woodland/Greenacres Neighborhood Plan because ADUs may not maintain the character of the single-family dwelling and accessory dwelling units, while not duplexes, would allow for additional dwellings in single-family areas.

4. The proposed text amendment to add accessory dwelling units appears to not have a negative impact on safety from fire and other dangers because ADUs would be required to meet the bulk and dimensional requirements for the underlying district and accessory dwelling units would be required to meet the setbacks of a principal structure.
5. The proposed amendment to the Flathead County Zoning Regulations was found to comply with and have no impact public health, safe and general welfare because provide an opportunity to generate additional income and increase the supply of affordable housing, ADUs can result in a small increase in property appraisals and tenants may be willing to provide personal services that promote health and safety such as, providing occasional transportation for elderly landlords or providing in-home health services in lieu of rent.
6. The proposed amendment to the Flathead County Zoning Regulations was found to comply with and have no impact on public health, safety and general welfare because it would provide an opportunity to generate additional income, increase the supply of affordable housing, result in a small increase in property appraisals, and tenants may be willing to provide personal services that promote health and safety such as, providing occasional transportation for elderly landlords or providing in-home health services in lieu of rent.
7. The proposed amendment was found to have minimal impact on water, sewerage, schools, parks and other public requirements because ADUs tend to be better integrated into a community and generally do not require any additional infrastructure and ADUs will require a subsequent review through DEQ, the Flathead City-County Health Department or a water and sewer district to ensure the adequate provision of water and sewer.
8. The proposed amendment was found to have no impact on light and air because bulk and dimensional requirements for the underlying zoning would be applicable and accessory dwelling units would be required to meet the setbacks for a principal structure which have established to ensure a reasonable provision of light and air.
9. The proposed text amendment is not anticipated to have a negative effect on motorized and non-motorized transportation because a conditional use permit will be required within high density residential areas, in lower density areas the roads tend to have low traffic volumes, the Road and Bridge department does not have any comments regarding this proposal and ADUs tend to be better integrated into a community and generally do not require any additional infrastructure.
10. This proposed text amendment would be compatible with the Growth Policy of the cities of Columbia Falls, Kalispell and Whitefish because it would allow for additional affordable housing options which is a goal of all three of the cities' growth policies, has the potential to encourage infill and would allow for accessory dwelling units when feasible.
11. The proposed amendment to the Flathead County Zoning Regulations was found to preserve the character of the district and its peculiar suitability for a particular use because accessory dwelling units would be required to meet the setback

requirements of a principal structure, can be no larger than 40% of the floor area of the principal dwelling, must be subordinate in size, location and appearance to single family dwelling and the text amendment requires 1 parking space per 400 square feet of gross floor area with a maximum of 2 parking spaces.

12. The proposed text amendment has the potential to both conserve the value of buildings and decrease the value of buildings because ADUs provide an opportunity to generate additional income, increase the supply of low- and moderate-cost rental housing and if designed properly have the potential to blend into the surrounding neighborhood but also could attract absentee landlords who will exploit housing resources and not provide proper maintenance and up keep.
13. The proposed amendment to add accessory dwelling units to the Flathead County Zoning Regulations was found to encourage the most appropriate use of land throughout the area because the text amendment could offer an alternative to a zone change to increase density on a lot, can provide added income for a farmer, young family, or the elderly and can increase the supply of affordable housing.
14. While the proposed text amendment is proposed based on interest from the general public the amendment may not be entirely consistent with adopted zoning ordinances of nearby municipalities because Columbia Falls and Kalispell do not have provision for accessory dwelling units in residential districts and Whitefish requires a conditional use permit for accessory apartment and they must be attached to a dwelling unit or a garage, further the performance standards and definition would serve to minimize impacts in areas in close proximity to municipalities.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations, a review and evaluation by the staff of the Planning Board comparing the proposed zoning text amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM